

REMARKS

Claim 1-13 are currently pending in the application. By this amendment, claims 1 and 2 are amended for clarity purposes only. The claims are not amended to overcome any prior art rejections and also should not be considered a narrowing amendment. The above amendments do not add new matter to the application and is fully supported by the specification. For example, the amendment to claim 1 can be found in FIGS. 3-5, and page 5 of the specification. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

Entry of Amendments are Proper

Entry of the Amendment to claim 1 is proper under 37 C.F.R. §1.116 since the Amendment: (a) places the application in better condition for allowance for the reasons discussed herein; (b) does not raise new issues requiring further search and/or consideration by the Examiner because these arguments were previously considered by the Examiner and thus further consideration and/or search by the Examiner is not warranted; (c) does not present any additional claims without canceling a corresponding number of finally rejected claims; (d) places the application in better form for an appeal, should an appeal be necessary; and (e) responds to formal matters set forth by the Examiner. Claim 2 is amended strictly for antecedent basis. The Amendment to claim 1 is necessary and was not earlier presented because it is made in response to arguments raised in the Final Rejection. Accordingly, entry of the Amendment is respectfully requested.

Allowed Claims

Applicants submit that no prior art is applied by the Examiner and, as such, it would appear that the claims include allowable subject matter. Specifically, Applicants submit that claims 1-13 should be indicated as allowed, pending overcoming the 35 U.S.C. §112, 2nd paragraph rejection.

Applicants further submit that according to MPEP 2173.06:

... where the degree of uncertainty is not great, and where the claim is subject to more than one interpretation and at least one interpretation would render the claim unpatentable over the prior art, an appropriate course of action would be for the examiner to enter two rejections: (A) a rejection based on indefiniteness under 35 U.S.C. 112, second paragraph; and (B) a rejection over the prior art based on the interpretation of the claims which renders the prior art applicable. See, e.g., *Ex parte Ionescu*, 222 USPQ 537 (Bd. App. 1984). The first approach is recommended from an examination standpoint because it avoids piecemeal examination in the event that the examiner's 35 U.S.C. 112, second paragraph rejection is not affirmed, and may give applicant a better appreciation for relevant prior art if the claims are redrafted to avoid the 35 U.S.C. 112, second paragraph rejection.

35 U.S.C. §112 Rejection

Claims 1-13 were rejected under 35 U.S.C. §112, 2nd paragraph. This rejection is respectfully traversed.

According to MPEP §2173.02, the test for definiteness under 35 U.S.C. §112, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986). Definiteness of claim language must be analyzed, not in a vacuum, but in light of: (A) the content of the particular application disclosure; (B) the teachings of the prior art; and (C) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.

Regarding the rejection of claim 1, lines 2-3, Applicants have amended the claim for clarity purposes, only. In particular, claim 1 has been amended to recite "a screw thread". This language clarifies the claim language as suggested by the Examiner. This claim language clearly finds support in FIGS. 3-5. Specifically, FIGS. 3-5 clearly show that the cap has a thread, which engages the bottle. Also, one of ordinary skill in the art would realize that a screw has a thread.

Regarding the rejection of claim 1, lines 5-7, the Examiner suggested that further language from the specification be added to claim 1. The Examiner was of the opinion that the

--6--

description at page 5 did not adequately explain the reverse movement. Applicants disagree and also submit that the Examiner appears to have disregarded the language at page 7, which was brought to the Examiner's attention in the previous response. In any event, although Applicants note that the specification clearly discloses how the reverse moving means can descend with respect to a portion of cap when it is connected to a portion of the cap, in an attempt to expedite allowance of the application claim 1 was further amended. Specifically, although pages 5 and 7 of the specification clearly disclose the features of the invention, claim 1 has been amended to recite that the reverse moving means includes a reverse screw.

Accordingly, Applicants respectfully request that the rejection over claims 1-13 be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 19-0089.

Respectfully submitted,



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